

REMARKS

Claims 1-4, 6-8 and 10 presently appear in this case. No claims have been allowed. The official action of June 2, 2003, has now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

Briefly, the present invention is directed to methods for treating conditions wherein TNF is to be eliminated from the body or its effect in the body is to be antagonized by administering the TNF binding protein of the present invention.

The examiner states that the title is not descriptive and a new title is required indicative of the invention to which the elected claims are directed.

The title has now been amended to specify that the claims are directed to methods of use, thus obviating this requirement.

Claims 1-10 have been objected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 12 of U.S. Patent No. 5,512,544. The examiner states that a timely filed terminal disclaimer may be used to overcome an actual or provisional rejection based on a non-

statutory double patenting ground, provided the conflicting application or patent is shown to be commonly owned with this application.

Attached hereto is a terminal disclaimer establishing common ownership and disclaiming any terminal part of the present application which would extend beyond the termination of Patent No. 5,512,544. Accordingly, as this terminal disclaimer is in compliance with 37 C.F.R. §1.321(c), a double patenting rejection has been obviated. Reconsideration and withdrawal thereof is therefore respectfully urged.

Claims 5 and 9 have been rejected under 35 U.S.C. §112, first paragraph, for lack of enablement.

Claims 5 and 9 have now been deleted without prejudice toward the continuation of prosecution thereof in a continuing application. Accordingly, this rejection has now been obviated.

The prior art as cited but not applied by the examiner has been noted as has the examiner's implicit indication that the references are insufficiently pertinent to warrant their application against the claims.

It is submitted that all the claims now present in the case clearly define over the references of record and fully comply with 35 U.S.C. §§112 and 101.

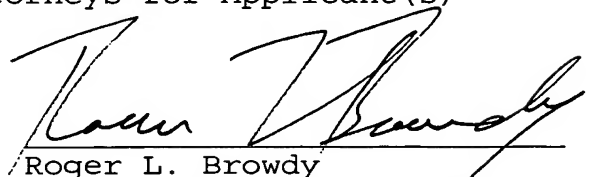
Appln. No. 10/036,434
Amdt. dated December 2, 2003

Reconsideration and allowance are therefore earnestly
solicited.

Respectfully submitted,

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